

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

)	
In re: Facebook, Inc., Consumer Privacy User)	
Profile Litigation)	MDL Docket No. 2843 Case
)	
This document relates to:)	No. 3:18-md-02843-VC
)	
ALL ACTIONS)	

PLAINTIFFS’ CONSOLIDATED CASE MANAGEMENT STATEMENT

Pursuant to Pretrial Order No. 1 (Dkt. No. 2), Plaintiffs hereby submit this consolidated case management statement.¹

I. Background

A. Facts

Plaintiffs bring these cases against Facebook, Inc. (“Facebook”), Cambridge Analytica, LLC (“Cambridge Analytica”), and affiliated individuals, entities, and officers, on behalf of tens of millions of Facebook users, to address the wholesale disregard of their personal privacy. Facebook is responsible for allowing—even encouraging—third-party access to, and possession of, Plaintiffs’ data, including, in the case of Cambridge Analytica deploying an app for the purposes of collecting data to deliver targeted political messages.

Although Facebook’s *publicly*-proclaimed purpose “is to build useful and engaging products that enable people to connect and share with friends and family through mobile devices, personal computers, and other surfaces,”² Facebook’s true, undisclosed purpose is to amass personal data from its users. Facebook operates to monetize the vast trove of its users’ private

¹ As described in Section III, below, Defendant Cambridge Analytica and certain related entities, including SCL USA, Inc., have filed for Chapter 7 bankruptcy liquidation in the Southern District of New York. *See, e.g.*, Suggestion of Bankruptcy filed in *Beiner et al. v. Facebook, Inc. and Cambridge Analytica, LLC*, No. 18-1953 (N.D. Cal.) (Dkt. No. 33). Nothing in this Case Management Statement is intended by Plaintiffs to constitute a continuation of the proceedings commenced against these Defendants.

² *See* Facebook, Inc., 2017 Annual Report (Form 10-K), at 5.

1 data by, in part, laundering the data through app developers, who not only pay Facebook to place
2 advertising on Facebook's platform, but also use the data they obtain to develop targeted
3 advertising placed by others on Facebook's platform. As such, the true customers of Facebook
4 are the developers and advertisers who benefit from the aggregation of Facebook users' data and
5 the deployment of "an algorithmically-ranked series of stories and advertisements individualized
6 for each person."³ And Facebook users, rather than being the customers of Facebook, are in
7 essence the product Facebook sells to its advertisers.

8 Facebook induces its users into giving up their most personal and private information on
9 the Facebook platform, by making false promises to keep personal information private, and it
10 fails to adequately disclose material information about its and third-party uses of personal data.
11 Facebook then surreptitiously provides that information to third parties in order to generate
12 advertising revenue. The private, personal information held by Facebook is so detailed that the
13 company is able to target advertisements "by location, demographics, likes, keywords," and any
14 other information Facebook collects about its users.⁴

15 Facebook allowed app developers like Cambridge Analytica (and other third-parties)
16 access to this highly-personal user data in at least two ways. First, app developers (and mobile
17 service providers) could gather Facebook users' data directly from the user. In addition,
18 Facebook provided app developers, such as Cambridge Analytica, "friends permission" whereby
19 the same data obtained from the app user could be collected from the app user's Facebook
20 *friends*. Facebook implemented "friends permission" with no safeguards and without seeking
21 permission from the app user's friends: the Facebook "friends" had no agreement with the app
22 and had never consented to having their data collected by the app.⁵ Once the data was collected
23 by Cambridge Analytica and other developers, Facebook exercised no control over how the data
24 was used, or with whom it was ultimately shared, but rather actively encouraged the use of this
25 data for targeted political and commercial advertising.

26 ³ *Id.*

27 ⁴ See Data Use Policy, IV. How Advertising and Sponsored Stories Work, Facebook (updated
28 Dec. 11, 2012), ¶¶ 43, 62, available at <https://www.scribd.com/document/191118234/Facebook-2>.

⁵ See Josh Conline, *Facebook is Shutting Down Its API For Giving Your Friends' Data to Apps*,
TECH CRUNCH (Apr. 28, 2015) <https://techcrunch.com/2015/04/28/facebook-api-shut-down/>.

1 In 2014, Facebook and Cambridge Analytica agreed to deploy the “friends permission” to
 2 allow Cambridge Analytica to obtain the personal information of more than 50 million Facebook
 3 users in the United States and the United Kingdom,⁶ in direct contravention of the FTC Consent
 4 Decree Facebook had agreed to in 2011. The nature of this information, including interests, likes,
 5 location, political affiliation, relationships, religion, photos, videos and more,⁷ is of a profoundly
 6 personal nature. Cambridge Analytica utilized this information to identify persons as targets for
 7 political advertisements, the content of which could be—and was—tailored to the targeted
 8 persons, as informed by their personal data that Facebook provided to Cambridge Analytica.

9 While the claims and particular facts alleged vary somewhat across the complaints that
 10 have been consolidated into the MDL, the complaints are generally in agreement regarding the
 11 following basic contours of the facts giving rise to this litigation.⁸ Global Science Research,
 12 through a researcher—Aleksandr Kogan—created an app called “thisisyourdigitallife” that
 13 allowed Facebook users to take a personality quiz and download the app. The deployment of the
 14 app was undertaken at the direction of Cambridge Analytica, which funded Global Science
 15 Research’s work and harvested its data. The goal of this app was to obtain information about
 16 Facebook users who downloaded the app, and surreptitiously from those users’ Facebook
 17 “friends.” Through this scheme, Cambridge Analytica reportedly was able to acquire the private
 18 data of up to 87 million Facebook users from the mere 277,000 Facebook users who downloaded
 19 the “thisisyourdigitallife” app. Cambridge Analytica, in turn, created and sold psychological
 20 profiles of Facebook users that identified likely political persuasions and personality traits that it
 21 sold to political campaigns for targeted messaging and other unauthorized uses. At the time it
 22 was uncovered, that acquisition was the largest known transfer of user data in Facebook history.

23
 24 ⁶ One of the complaints from a case transferred to this MDL, *Redmond et al. v. Facebook, Inc. et al.*, includes within its class definition citizens of the United Kingdom.

25 ⁷ The personal information obtained by Cambridge Analytica includes at least the following data
 26 sets: about me, actions, activities, birthday, check-ins, education history, events, games activity,
 27 groups, hometown, interests, likes, location, notes online presence, photo and video tags, photos,
 questions, relationship details, relationships, religion, politics, status, subscriptions, website and
 work history.

28 ⁸ Attached hereto as **Exhibit A** is a Table of Related Cases containing the names of cases
 brought against Facebook, the putative Defendants, causes of action, and whether these cases
 have been transferred to this court.

1 That status is now in doubt as, in May 2018, Facebook admitted that as many as hundreds of
 2 other app developers may have obtained Facebook user data similarly to Cambridge Analytica.

3 Facebook's attempt to characterize Plaintiffs' complaints as addressing the mere "misuse"
 4 of personal information by a single rogue entity rings hollow. *See* Dkt. No. 66 at 8. Facebook
 5 acknowledges that it committed "a breach of trust between Facebook and the people who share
 6 their data with us and expect us to protect it."⁹ However, Facebook has not yet disclosed or
 7 voluntarily acknowledged the full scope of its distribution of private user data, nor has Facebook
 8 disclosed the known uses to which third parties put the data, and investigations into Facebook's
 9 conduct are ongoing. Facebook CEO Mark Zuckerberg was called to testify before the Senate
 10 and House Committees in April 2018. The Justice Department, FTC, SEC and FBI are reportedly
 11 investigating Cambridge Analytica. Nationwide, Facebook users have filed about 30 putative
 12 class actions against Facebook and other defendants seeking compensation for Facebook's
 13 dissemination and misuse of their private information, disgorgement of profits and other benefits
 14 attributable thereto, statutory and/or punitive damages as appropriate, reasonable attorney's fees
 15 and litigation expenses, and injunctive relief to bring the true scale and ramifications of
 16 Facebook's privacy violations to light, and to prevent such violations in the future. As of this
 17 filing, 29 cases have been consolidated in this MDL.

18 Public revelations since the initial reports upon which Plaintiffs' complaints were based
 19 have further shown the extent of Facebook's irreverence toward its users' privacy rights. In
 20 March of 2018, when news of Cambridge Analytica first broke, Facebook confirmed only that
 21 277,000 people had downloaded the "thisisyourdigitallife" app. Facebook never commented on
 22 the reports that 50 million users' data had been accessed via that app. Not until weeks after
 23 intense public scrutiny did Facebook finally acknowledge that 87 million users' data had been
 24 exfiltrated via Cambridge Analytica's app. Facebook eventually had to concede that it "didn't
 25 take a broad enough view of what our responsibility was" and "will be able to uncover a large
 26 amount of bad activity that exists."¹⁰

27 ⁹ *See* Mark Zuckerberg, FACEBOOK (Mar. 21, 2018),
 28 <https://www.facebook.com/zuck/posts/10104712037900071>.

¹⁰ *See* Sarah Frier, *Facebook Says Data on Most of Its 2 Billion Users Is Vulnerable*,

1 In the wake of the scandal, Facebook has broadly reiterated its promise of transparency
 2 and openness but its actions belie any such commitment. During his Congressional testimony,
 3 Facebook CEO Mark Zuckerberg stated that Facebook would be “investigating many apps, tens
 4 of thousands of apps, and if we find any suspicious activity, we’re going to conduct a full audit of
 5 those apps to understand how they’re using their data and if they’re doing anything improper. If
 6 we find that they’re doing anything improper, we’ll ban them from Facebook and we will tell
 7 everyone affected.” Yet, in May 2018, when Facebook was forced to acknowledge that
 8 thousands of app developers had the same access to user data as Cambridge Analytica, and that at
 9 least hundreds of developers may have taken data for illicit purposes,¹¹ it refused, and still refuses,
 10 to disclose those app developers’ identities. In June 2018, it was revealed that Facebook also had
 11 current, ongoing “data sharing partnerships” with as many as sixty device makers, such as cell
 12 phone manufacturers, including Apple, Amazon, Microsoft, Samsung, Lenovo, and known
 13 national security risk Huawei Technologies Co.¹² under which the companies had extensive
 14 access to Facebook user data. A few days later, another revelation showed Facebook had made
 15 special deals with certain app developers called “whitelists,” permitting those developers access
 16 to user data, contrary to Facebook’s prior promises.¹³ Indeed, Facebook has had to acknowledge
 17 that most of its 2 billion users worldwide had their data improperly compromised.¹⁴

18
 19
 20 BLOOMBERG (Apr. 4, 2018), <https://www.bloomberg.com/news/articles/2018-04-04/facebook-says-data-on-87-million-people-may-have-been-shared>.

21 ¹¹ See Ime Archibong, Facebook VP of Product Partnerships, *An Update on Our App*
 22 *Investigation and Audit*, FACEBOOK (May 14, 2018),
 23 <https://newsroom.fb.com/news/2018/05/update-on-app-audit/>.

24 ¹² See Gabriel J.X. Dance, Nicholas Confessore and Michael LaForgia, *Facebook Gave Device*
 25 *Makers Deep Access to Data on Users and Friends*, NEW YORK TIMES (June 3, 2018),
 26 <https://www.nytimes.com/interactive/2018/06/03/technology/facebook-device-partners-users-friends-data.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region®ion=top-news&WT.nav=top-news>.

27 ¹³ See Ashley Wong, *Facebook gave some develops access to users’ friends after policy changed*,
 28 USA TODAY (June 8, 2018), <https://www.usatoday.com/story/tech/2018/06/08/facebook-gave-some-companies-special-access-data-users-friends-report/686651002/>

¹⁴ See Mike Schroepfer, Facebook Chief Technology Officer, *An Update on Our Plans to*
Restrict Data Access on Facebook, FACEBOOK (April 4, 2018),
<https://newsroom.fb.com/news/2018/04/restricting-data-access/> (“Given the scale and
 sophistication of the activity we’ve seen, we believe most people on Facebook could have had
 their public profile scraped in this way.”).

1 Recently, on June 29, 2018, Facebook admitted to Congress that it continued to grant
 2 sixty-one app developers “friends permission” for six months beyond the time it had previously
 3 publicly stated the practice had stopped.¹⁵ In its response to this Congressional inquiry, Facebook
 4 publicly acknowledged that many large, international corporations still have access to Facebook’s
 5 user data, and that such access continues, some of which will have access for several more
 6 months.¹⁶

7 **B. Legal Issues**

8 The following causes of action have been pled in the complaints transferred to this MDL:

- 9 1. Violation of Stored Communications Act, 18 U.S.C. §§ 2701 et seq.
- 10 2. Violation of the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510 et seq.
- 11 3. Violation of Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C.
 12 § 1962(c)
- 13 4. Violation of Video Privacy Protection Act, 18 U.S.C. § 2710
- 14 5. Violation of Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.
- 15 6. Violation of California Business & Professions Code §§ 17200 et seq.
- 16 7. Violation of the California Constitution Article I, Section I
- 17 8. Violation of California Invasion of Privacy Act, Cal. Pen. Code § 637.7
- 18 9. Violation of California Customer Records Act, Cal. Civil Code § 1798.90
- 19 10. Violation of California Security Breach Notification Law, Cal. Civil Code
 20 § 1798.80
- 21 11. Violation of California Right of Publicity Statute, Cal. Civil Code § 3344
- 22 12. Violation of California Consumer Legal Remedies Act, Cal. Civ. Code § 1750
- 23 13. Violation of Illinois Consumer Fraud and Deceptive Business Practices Act, 815
 24 ILCS 505

25 ¹⁵ See Samuel Chamberlain, *Facebook document dump reveals it shared data with 52 companies,*
 26 *some based in China*, FOX NEWS (July 2, 2018),
 27 <http://www.foxnews.com/tech/2018/07/02/facebook-document-dump-reveals-it-shared-data-with-52-companies-some-based-in-china.html>.

28 ¹⁶ See Georgia Wells, *Facebook Reveals Apps, Others that Got Special Access to User Data*,
 WALL STREET JOURNAL (July 1, 2018), <https://www.wsj.com/articles/facebook-reveals-apps-others-that-got-special-access-to-user-data-1530454712?mod=mhp>.

14. Violation of New Jersey Consumer Fraud Act, N.J. Stat. § 56:8-1
15. Violation of Alabama Deceptive Trade Practices Act, Ala. Code § 8-19-1
16. Violation of Alabama Right to Publicity Act, Ala. Code § 6-5-770
17. Consumer Fraud pursuant to Delaware Commerce and Trade Code, 6 Del. C. § 2513
18. Invasion of Constitutional Right of Privacy
19. Invasion of Privacy (Intrusion Upon Seclusion)
20. Conversion
21. Civil Conspiracy
22. Negligence and Willful Negligence
23. Negligent Failure to Warn
24. Negligence Per Se
25. Breach of Contract
26. Unjust Enrichment
27. Quasi Contract
28. Intentional Misrepresentation
29. Fraudulent Misrepresentation
30. Negligent Misrepresentation
31. Misappropriation of Valuable Property without Compensation
32. Fraud
33. Breach of Covenant of Good Faith and Fair Dealing
34. Unlawful Interception of Communications
35. Declaratory Relief Pursuant to 28 U.S.C. § 2201
36. Wantonness and Punitive Damages
37. Injunctive Relief¹⁷

¹⁷ *Karon v. Zuckerberg et al.*, 18-cv-1929 (N.D. Cal.) (“*Karon*”), a pending derivative lawsuit, also includes claims of (1) breach of fiduciary duty; (2) violation of Section 14(a) of the Exchange Act and SEC Rule 14a-9; (3) Violation of Section 25402 of the California Corporations Code; (4) Violation of Section 25403 of the California Corporations Code; and (5) Contribution and Indemnification. *Karon* has been named a tag along action in the MDL, but its disposition is

1 **C. Defendants**

2 Facebook and in almost every case at least one incarnation of a Cambridge Analytica
3 entity has been named as a defendant in every case transferred to this MDL. In addition to
4 Facebook, the following defendants have also been named in in cases consolidated in this MDL:

- 5 1. Cambridge Analytica (including Delaware entities Cambridge Analytica, LLC;
6 Cambridge Analytica Holdings, LLC; Cambridge Analytica Commercial LLC; and
7 Cambridge Analytica Political LLC; and Cambridge Analytica Ltd., a United
8 Kingdom entity)
- 9 2. Global Science Research, Ltd., a United Kingdom entity
- 10 3. SCL Group (including United Kingdom entities SCL Group Limited and SCL
11 Elections Ltd.; and SCL USA Inc., a Delaware entity)
- 12 4. Mark Zuckerberg, Chief Executive Officer at Facebook
- 13 5. Sheryl Sandberg, Chief Operating Office at Facebook
- 14 6. Robert Mercer, a Cambridge Analytica investor
- 15 7. Stephen Bannon, a part owner, Vice President, and Secretary of Cambridge
16 Analytica
- 17 8. Aleksandr Kogan, a resident of the United Kingdom
- 18 9. Emerdata Ltd., a United Kingdom entity¹⁸

19 **II. Status of MDL Proceedings and Pending Motions**

20 The Table of Related Cases, attached hereto as **Exhibit A**, identifies the cases that have
21 been, or are expected to be, transferred to this MDL, and the status of any motions adjudicated or
22 pending in those cases.

23 The case captioned *Illinois, ex rel. Foxx v. Facebook, Inc. et al.*, pending in the Northern
24 District of Illinois, is subject to Conditional Transfer Order-1 (“CTO-1”) in the JPML (JPML Dkt.
25 No. 142). In the Northern District of Illinois District Court, the State’s Attorney of Cook County
26

27 as yet undetermined.

28 ¹⁸ *Karon* names Zuckerberg, Sandberg, and six current or former members of Facebook’s Board of Directors: Marc Andreessen, Peter Thiel, Reed Hastings, Erskine Bowles, Susan Desmond-Hellman, and Jan Koum as defendants.

on April 20, 2018 filed a motion to remand the case to the Circuit Court of Cook County, which has been fully briefed and is currently pending before the Honorable Judge Dow. On June 29, 2018 the State filed a Motion to Vacate CTO-1 with the JPML. JPML Dkt. No. 152.

III. Bankruptcy Proceedings

This matter is currently stayed against Defendants Cambridge Analytica LLC (which merged with Cambridge Analytica Commercial LLC and Cambridge Analytica Political LLC on April 27, 2018), and SCL USA, Inc. by virtue of the filing of voluntary petitions for relief pursuant to Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York on May 17, 2018. *See* Dkt. No. 14. Salvatore LaMonica of LaMonica Herbst & Maniscalco, LLP, has been appointed as the Chapter 7 Trustee. *Id.*

Litigation can and should proceed against the entities not subject to the bankruptcy stay, while the status of proceedings against the bankrupt entities is being determined. Plaintiffs respectfully submit that once Interim Class Counsel is appointed, that they confer with all Defendants and the Bankruptcy Trustee with regard to any process for continuing the litigation against the Defendants that have filed bankruptcy.

IV. Amendment of Pleadings and Possible Joinder of Other Parties

Plaintiffs respectfully suggest that a Consolidated Amended Complaint should be filed within sixty (60) days of the appointment of Interim Class Counsel. This schedule would accommodate seeking a lift of the bankruptcy stays (*see* section III), for Facebook to make immediate disclosures described herein (*see* Section V.A.), and allow for the possible joinder of other defendants (*see* below).

Plaintiffs *may* seek to add additional defendants not yet named with the filing of the Consolidated Amended Complaint. The complaints centralized in this MDL were filed soon after the public revelation of Facebook's partnership with Cambridge Analytica, and thus focused on those parties (and their affiliates and officers). Since the initial filing of many of these complaints, additional information has become public, including by virtue of Facebook's own slow drip of ongoing disclosures, which provides a basis for identifying app developers or other third parties

in addition to Cambridge Analytica that also worked with Facebook to obtain users' personal information. The determination of the potential liability of these other parties will center around their relationship with Facebook and the same policies and practices of Facebook at issue with Cambridge Analytica and the other defendants. Accordingly, Plaintiffs may join additional parties as defendants, provided proper procedural mechanisms and case management devices can be deployed to ensure the efficient conduct of the litigation.

The undersigned Plaintiffs have reached an agreement with Defendants Facebook and Mark Zuckerberg to propose the following briefing schedule (somewhat different than Defendants' original proposal):

<u>Event</u>	<u>Deadline</u>¹⁹
Plaintiffs File Consolidated Amended Complaint	60 days from the appointment of Interim Class Counsel
Defendants File Responsive Pleadings and Motions	45 days from filing of Consolidated Amended Complaint
Plaintiffs File Oppositions to Responsive Motions	30 days from filing of Responsive Pleadings and Motions
Defendants File Replies to Oppositions to Responsive Pleadings	21 days from filing of Oppositions to Responsive Motions
Hearing On Responsive Motions	TBD

V. Discovery

Within fourteen (14) days after appointment of Interim Class Counsel, all parties are directed to meet and confer and present to the Court a proposed discovery plan under Rule 26(f).

Plaintiffs' position will be that discovery for all purposes should proceed upon the filing of the Consolidated Amended Complaint. Prompt discovery into Facebook's current practices and its past dissemination of users' private information is needed to protect class members.

¹⁹ In the event the dates proposed herein result in scheduling conflicts due to the holidays, the parties hereto have agreed that they will confer in good faith with Defendants to propose to the Court a mutually agreeable amended schedule.

Defendants should be required to make an immediate production of certain evidence as part of their Initial Disclosure obligations, as specified below.

Facebook's request to delay discovery until it answers the complaint is unwarranted. Within this district, "a pending motion to dismiss does not typically stay discovery." *Mandel v. Bd. of Trustees of Cal. State Univ.*, No. 17-03511, 2018 WL 1242067, at *24, n.19 (N.D. Cal. Mar. 9, 2018) (Orrick, J.). Further, in complex data privacy actions, a number of courts have similarly denied requests to stay discovery pending potentially dispositive motions. *In re Anthem, Inc. Data Breach Litig.*, No. 15-md-2617-LHK (N.D. Cal.), Dkt. No. 113 at 12 (setting forth defendants' request that discovery be stayed until after the Court rules on its Rule 12 motion), Dkt. No. 153 at 2 (rejecting defendants' request for a stay of discovery and stating that "discovery will start in this case as soon as lead Plaintiffs' counsel has been appointed"). Facebook and Mark Zuckerberg admit in their Case Management Statement that personal information which Plaintiffs entrusted to Facebook was "misused" after Facebook handed Cambridge Analytica unfettered privileges to that data in order to further its own commercial purposes. Dkt. No. 66 at 8. Facebook's challenges to the pleadings will necessarily be technical and in the end not overcome Plaintiffs' ability to state a cognizable claim upon which relief can be granted. As such, waiting several months for the pleadings to settle before discovery commences makes no sense, despite Facebook's and Mr. Zuckerberg's astounding assertion that their conduct is of no consequence to their users. *See* Dkt. No. 66 at 8-9. Rather, Facebook should be required to make a prompt accounting of the scope of its malfeasance by producing relevant documents and information.

A. Initial Disclosures

Plaintiffs propose that all parties make the standard Rule 26(a) initial disclosures within fourteen (14) days of the filing of the Consolidated Amended Complaint.

In addition, to facilitate efficient prosecution of this matter, Plaintiffs propose that Facebook make an *immediate* disclosure of the following information:

1 a. The identity of all app developers and other third parties, in addition to Cambridge
2 Analytica, whom Facebook gave permission to access or obtain the personal information of
3 Facebook users, including via its “friends permission” practice;

4 b. The means to identify all Facebook users whose personal information was
5 accessed or obtained by app developers and other third parties, including via Facebook’s “friends
6 permission” practice.

7 c. The identity of the nature and types of the content of all the personal information
8 accessed or obtained by app developers and other third parties, including via Facebook’s “friends
9 permission” practice.

10 d. All non-privileged reports of investigations or audits, whether conducted internally
11 at Facebook or by any federal, state, or foreign government, concerning Facebook’s conduct as
12 alleged in the complaints subject to this MDL, and all documents provided by Defendants as part
13 of any such investigation.

14 **B. Preservation of Evidence**

15 Plaintiffs have taken reasonable steps to preserve evidence that may be relevant to this
16 litigation. Facebook represents that it “has taken steps to preserve evidence relevant to the issues
17 reasonably evident in this action.” *See* Dkt. No. 66 at 9. With respect to Cambridge Analytica,
18 pursuant to a stipulation entered into in *Beiner et al. v. Facebook, Inc. and Cambridge Analytica,*
19 *LLC*, No. 18-1953 (N.D. Cal.), on May 4, 2018, this Court ordered Cambridge Analytica to
20 “preserve and maintain the integrity of all books and records of Cambridge Analytica, including
21 all information, documents, and other tangible objects or electronically stored information as
22 defined in Fed. R. Civ. P. 34(a) that are in its possession, custody and control which are
23 reasonably anticipated to be subject to discovery under Fed. R. Civ. P. 26, 45, and 56(e)... in its
24 original tangible or electronic format...” *Beiner* action, Dkt. No. 30. Pursuant to Pretrial Order
25 No. 1, that order remains in effect.

26 **C. Electronic Discovery**

27 Plaintiffs are particularly cognizant that the production and handling of electronically
28 stored information (“ESI”) in this case may carry the risk of further disclosures of class members’

personal information. Plaintiffs anticipate negotiating an ESI stipulation once Interim Class Counsel is appointed, which they propose be submitted to the Court for consideration within thirty (30) days after the Court appoints Interim Class Counsel.

D. Protective Order

Plaintiffs expect that the parties will be able to stipulate to a protective order governing the treatment of confidential information once Interim Class Counsel is appointed, which they propose be submitted to the Court for consideration within thirty (30) days after the Court appoints Interim Class Counsel.

E. Discovery Limits

Plaintiffs believe that discovery in this case will exceed the limitations imposed by Federal Rule of Civil Procedure 30. Plaintiffs propose that they meet and confer with Defendants once Interim Class Counsel is appointed to negotiate and submit a proposed stipulation for the Court's further consideration.

VI. Pending Motions/Appointment of Interim Class Counsel

The Court intends to address the appointment of Interim Class Counsel at the Case Management Conference scheduled for July 18, 2018.

VII. Litigation Schedule for Continued Discovery, Class Certification and Summary Judgment

Facebook and the other Defendants put in motion a series of uniform policies and practices that compromised the personal information of all class members in violation of well-established legal standards and social norms honoring Americans' right to privacy.

Accordingly, this case is exceptionally well-suited for class treatment.

Plaintiffs respectfully suggest that after the Court's ruling on motions challenging the pleadings, the parties meet and confer regarding a schedule for the continuation of discovery, and the filing of motions for summary judgment and class certification. Plaintiffs do not believe it will be economical to litigate cross-motions for summary judgment on liability with respect to named plaintiffs prior to the Court's consideration of class certification.

1 **VIII. Consent to Magistrate Judge for All Purposes**

2 Plaintiffs do not consent to have a magistrate judge conduct all further proceedings.

3 **IX. Plaintiffs' Counsels' Time-Keeping**

4 Plaintiffs' counsel recommend adopting time-keeping protocols requiring the recording of
5 daily time spent and expenses incurred in connection with this litigation, and reporting on a
6 monthly basis such time and expenses to Interim Class Counsel. Interim Class Counsel will make
7 such records and reports available to the Court, upon request. In order for time and expenses to
8 be compensable, any counsel other than Interim Class Counsel must secure the express
9 authorization of Interim Class Counsel for any projects or work undertaken in this litigation.

10 On a quarterly basis (on the last business day of each October, January, April, and July),
11 Interim Class Counsel shall submit to the Court in camera reports reflecting hours billed in this
12 matter by all Plaintiffs' counsel. Failure to maintain and submit records with sufficient
13 descriptions of the time spent and expenses incurred may be grounds for denying attorneys' fees
14 and/or expenses, for the period that relates to the missing or inadequate submissions.

15 **X. Status Conferences**

16 Plaintiffs respectfully suggest that the Court schedule and hold status conferences at
17 regular intervals, as it deems appropriate. Counsel shall meet and confer in advance of each
18 status conference and submit to the Court no later than 1:30 p.m. on the day before the status
19 conference a joint agenda listing all matters to be considered.

20 **XI. MDL Website**

21 In light of the high public interest in these proceedings, Plaintiffs recommend that the
22 Court create a website for the posting of significant orders (typically located under the tab entitled
23 "Cases of Interest" at <https://cand.uscourts.gov/home>).

July 6, 2018

Respectfully submitted,

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Attestation Pursuant to Civil Local Rule 5-1(i)(3)

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